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EMINENT DOMAIN - VERMONT

Mongeon Bay Properties, LLC v. Town of Colchester

Supreme Court of Vermont - January 23, 2026 - A.3d - 2026 WL 180395 - 2026 VT 1

Property owner brought action against town seeking declaratory judgment and injunction prohibiting town from taking its property through eminent domain to construct stormwater treatment facility.

After bench trial, the Superior Court concluded that town did not meet its burden to prove necessity of taking and that taking was initiated in bad faith. Town appealed.

The Supreme Court held that town failed to give due consideration to statutory factors for establishing necessity of taking.

Town did not consider adequacy of other property and locations in attempt to condemn property for construction of stormwater treatment facility, as statutory factor of due-consideration requirement for establishing necessity of taking, even though town completed phosphorus control study and created related plan focused on potential sites based on study; neither plan nor study contemplated improvements to condemned property, no additional studies were conducted and no expert opinions to assess property's suitability were obtained after town selected property for condemnation, there was no evidence town used new tools for analyzing end-of-pipe treatment options in selecting property, and town's cost comparison of alternate site was tailored to justify selection of condemned property.

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